IN THE

ARIZONA COURT OF APPEALS

DIVISION TWO

IN RE PIMA COUNTY MENTAL HEALTH NO. MH64461112

No. 2 CA-MH 2015-0003
Filed November 10, 2015

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
NOT FOR PUBLICATION
See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Civ. App. P. 28(a)(1), (f).

Appeal from the Superior Court in Pima County
No. MH64461112
The Honorable Lisa Abrams, Judge Pro Tempore

AFFIRMED

COUNSEL

Ann L. Bowerman, Tucson
Counsel for Appellant

Community Partnership of Southern Arizona, Tucson
By Ryan J. Thomsen
Counsel for Appellee

MEMORANDUM DECISION

Judge Espinosa authored the decision of the Court, in which Presiding Judge Miller and Chief Judge Eckerstrom concurred.

E S P I N O S A, Judge:

¶1 N.R. appeals from the trial court's order that she continue to receive court-ordered treatment for one year. She maintains the court erred in denying her a religious exemption from such treatment pursuant to A.R.S. § 36-520(G). Finding no error, we affirm.

¶2 "'[W]e view the evidence in the light most favorable to sustaining the [trial court's] order.'" *In re MH 2008–000438*, 220 Ariz. 277, ¶ 6, 205 P.3d 1124, 1125 (App. 2009), *quoting Cimarron Foothills Cmty. Ass'n v. Kippen*, 206 Ariz. 455, ¶ 2, 79 P.3d 1214, 1216 (App. 2003). Since 1997, N.R. has been the subject of various applications and orders for mental health evaluations and treatment. In May 2012, her mother filed an application for involuntary evaluation pursuant to § 36-520, indicating N.R. was a danger to herself and to others and was persistently or acutely disabled. Petitions for court-ordered evaluation and treatment were also filed. In May 2012, the trial court found N.R. to be persistently and acutely disabled and unable to participate in treatment voluntarily and therefore ordered that she receive court-ordered treatment for one year. COPE Community Services was assigned as the treatment provider, and petitions for continued treatment were filed in 2013 and 2014. The court-ordered treatment continued in April 2013 and May 2014.

¶3 Community Partnership of Southern Arizona (CPSA) again filed a petition for continued treatment in April 2015, and in her answer, N.R. stated "she prefers to forego psychiatric medications in accordance with the tenets and practices of

Scientology." After a hearing on the petition, the trial court ordered that N.R. continue receiving treatment. In reaching its conclusion, the court determined N.R. was "a danger to herself and a danger to others" and that she was not "being treated by prayer or spiritual means" as provided in § 36-520(G). This appeal followed.

¶4 On appeal, N.R. argues the trial court erred in ordering continued treatment, contending, as she did below, that she may not be ordered into treatment based on her belief in Scientology. And she maintains there was insufficient evidence to establish she was a danger to herself or others. "We review the trial court's decision to determine whether it is supported by substantial evidence." *In re Mental Health Case No. MH 94-00592*, 182 Ariz. 440, 443, 897 P.2d 742, 745 (App. 1995); *see also In re Pima Cty. Mental Health Cause No. A20020026*, 237 Ariz. 452, ¶ 4, 352 P.3d 921, 923 (App. 2015).

¶5 As N.R. points out, § 36-520(G) provides that a person "may not be ordered evaluated, detained or involuntarily treated" if he or she "is being treated by prayer or spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner of that church or denomination." But, this provision does not apply if "the court has determined that the person is, as a result of mental disorder, a danger to others or to self." *Id*.

¶6 N.R. contends that because she established her sincere belief in Scientology and showed she was being treated in accordance with its tenets, CPSA had the burden to show she was a danger to herself or others and it did not carry that burden. The case she relies on in support of this claim, however, relates to Arizona's Free Exercise of Religion Act (FERA), *see State v. Hardesty*, 222 Ariz. 363, 214 P.3d 1004 (2009), and the principles set forth by our supreme court in relation to FERA have not been applied to § 36-520(G). Even accepting arguendo that those principles are applicable and that N.R. was "being treated by prayer or spiritual means alone," § 36-520(G), the trial court's ruling was proper because there was sufficient evidence to support its finding that N.R. was a danger to herself or others.

¶7 N.R. asserts that CPSA "failed to present evidence at the [most recent] hearing that [she] was currently meeting the statutory definition of danger to self." But, her psychiatrist testified that N.R. "became paranoid and actively psychotic" and police had to be called in October 2014 after her medication had been reduced. And he testified he believed she would be a danger to herself or others if not medicated.

¶8 N.R. contends her psychiatrist's testimony was not sufficiently detailed and based only on a report by another doctor about her behavior. But, unlike the cases on which N.R. relies, the psychiatrist's testimony here was not simply a "'bare assertion that the statutory criterion was met, without any explication of the facts that show it was met.'" *In re Mental Health Case No. MH2011-000914*, 229 Ariz. 312, ¶ 13, 275 P.3d 611, 615 (App. 2012), *quoting In re Mental Health Case No. MH 94-00592*, 182 Ariz. 440, n.4, 897 P.2d 742, 749 n.4 (App. 1995). As noted above, the psychiatrist testified that upon her last reduction in medication N.R. had become "paranoid and actively psychotic" and "had barricaded herself in her home with her mother" and the police had to be called. That the psychiatrist obtained this information from a medical record rather than personal knowledge does not negate it as evidence, and N.R. has presented no meaningful argument that it should not have been admitted.

¶9 At bottom, N.R.'s arguments are essentially a request for this court to reweigh the evidence presented to the trial court. She cites her own favorable testimony about the October incident and argues it should outweigh that of the psychiatrist. But she ignores her response when questioned about the incident, "That's a day I really can't remember to be honest with you." It is not our role to reweigh the evidence. *In re Pima Cty. Mental Health No. MH–2010–0047*, 228 Ariz. 94, ¶ 17, 263 P.3d 643, 647 (App. 2011).

¶10 To the extent N.R. argues in her reply brief that there must be evidence that she is currently exhibiting dangerous behavior in order for the court to find her ineligible for religious exemption from court-ordered treatment, we disagree. Although civil-commitment law implicitly requires that the danger be

imminent, such danger need not be proved by "recent dangerous conduct." *Pima Cty. Mental Health Case No. MH 1717-1-85*, 149 Ariz. 594, 595, 721 P.2d 142, 143 (App. 1986).

¶11 For all of the foregoing reasons, the trial court's order is affirmed.